

C → u 4.13.10

2010 AEA NEGOTIATIONS (Unit 41 and 42, Unit 43)
CITY INITIAL PACKAGE PROPOSAL

TERM

Term: July 1, 2010 – June 30, 2011

PAY

Effective June 27, 2010 all classifications represented by AEA will be reduced by 5.00%. This will result in the top and bottom of the range of all classifications represented by AEA being 5.00% lower. All employees will receive a 5.00% base pay reduction.

HEALTH INSURANCE COST SHARING

See Attached (City Proposal #4)

HMO PLAN DESIGN

See Attached (City Proposal #5)

HEALTH INSURANCE DUAL COVERAGE

See Attached (City Proposal #6)

HEALTH INSURANCE- HEALTH IN LIEU

See Attached (City Proposal #7)

LEAVES OF ABSENCE -- ABSENT WITHOUT NOTIFICATION

See Attached (City Proposal #8)

VACATION

See Attached (City Proposal #9)

SICK LEAVE PAYOUT

See Attached (City Proposal #10)

SICK LEAVE -- ABSENCE WITHOUT LEAVE

See Attached (City Proposal #11)

RETIREMENT COST MITIGATION

See Attached (City Proposal #12 & #13)

2010 AEA NEGOTIATIONS (Unit 41 and 42, Unit 43)
CITY INITIAL PACKAGE PROPOSAL

**DISABILITY LEAVE SUPPLEMENT and
INELIGIBILITY IF OFFER AND DECLINE OF MODIFIED DUTY**

See Attached (City Proposal #14 & # 15)

HOUSEKEEPING

See Attached (City Proposal #16)

MEDICAL VERIFICATION

See Attached (City Proposal #18)

ADDITIONAL 5% TOTAL COMPENSATION REDUCTION

Additional 5% reduction (TBD)

** This proposal is submitted in an attempt to reach a settlement. In the event the proposal is not accepted, the City reserves the right to modify, amend and/or add proposals, including, but not limited to:*

- Premium Pay (Unit 41 and 42)
- Higher Class Pay

CITY PROPOSAL #4- HEALTH INSURANCE COST SHARING FORMULA

Proposed Language

ARTICLE 11 BENEFITS

11.1 Health Insurance

11.1.4 Effective at the beginning of pay period one (1) of payroll calendar year 2009, the City will pay ninety percent (90%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee will pay ten percent (10%) of the premium for the lowest priced plan. If an employee selects a plan other than the lowest priced plan, the employee shall pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan.

11.1.5 Effective June 27, 2010, the City shall pay eighty (80%) of the full premium cost of the lowest priced plan for employee or employee and dependent coverage, and the employee will pay twenty percent (20%) of the premium for the lowest priced plan for the employee or for employee and dependent coverage. If an employee selects a plan other than the lowest priced plan, the employee shall pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan for employee or for employee and dependent coverage.

CITY PROPOSAL #5- HEALTH INSURANCE PLAN DESIGN

Proposed Language

ARTICLE 11 BENEFITS

11.1 Health Insurance

11.1.56 Effective January 1, 2008, co-pays for all available HMO plans shall be as follows:

- a. Office Visit Co-pay: \$10
- b. Prescription Co-pay: \$5 for generic and \$10 for brand name (The Blue Shield HMO will continue to include \$15 non-formulary drug co-pay.)
- c. Emergency Room Co-pay: \$50

11.1.7 Effective July 1, 2010, co-pays for all available HMO plans shall be as follows:

- a. Office Visit Co-pay shall be increased to \$25
- b. Prescription Co-pay shall be increased to \$10 for generic and \$25 for brand name
- c. Emergency Room Co-pay shall be increased to \$100
- d. Inpatient/Outpatient procedure copay shall be increased to \$100

CITY PROPOSAL #6- HEALTH INSURANCE DUAL COVERAGE

Proposed Language

ARTICLE 11 BENEFITS

11.1 Health Insurance

11.1.7 An employee may not be simultaneously covered by City-provided medical benefits as a City employee, and as a dependent of another City employee or retiree.

11.2 Dental Insurance

11.2.3 An employee may not be simultaneously covered by City-provided dental benefits as a City employee, and as a dependent of another City employee or retiree.

CITY PROPOSAL #7- MODIFICATIONS TO HEALTH IN LIEU

Proposed Language

11.3 Payment In-Lieu of Health and Dental Insurance

11.3.1 The purpose of the payment-in-lieu of health and/or dental insurance program is to allow employees who have double health and/or dental insurance coverage to drop the City's insurance and receive a payment-in-lieu.

11.3.2 Employees who qualify for and participate in the payment-in-lieu of health and/or dental insurance program will receive fifty percent (50%) of the City's contribution toward their health and/or dental insurance at the lowest cost single or family plan if the employee is eligible for family coverage. The City will retain the remaining fifty percent (50%) of that contribution the following per pay period:

	<u>Health In-Lieu</u>	<u>Dental In-Lieu</u>
<u>If eligible for family coverage:</u>	<u>\$150.00</u>	<u>\$10.00</u>
<u>If NOT eligible for family coverage:</u>	<u>\$50.00</u>	<u>\$10.00</u>

11.3.3 An employee who is already receiving other City provided medical benefits is not eligible for payment-in-lieu.

11.3.3-4 The payment-in-lieu of health and/or dental insurance program is available to full-time employees who are not on a reduced workweek or unpaid leave and have alternate group health and/or dental coverage. To qualify, an employee must provide proof of alternate group coverage to Human Resources. Alternate coverage must be acceptable by the City.

11.3.45 Enrollment in the payment-in-lieu of health and/or dental insurance program can only be done during the first thirty (30) days of employment, during the annual open enrollment period, or within thirty (30) days of a qualifying event (defined in the Human Resources Benefits Handbook as a change in marital, dependent or work status of the employee or the employee's spouse) occurring anytime during the year. Employees who miss the thirty (30) day time limit after a qualifying event must wait until the next open enrollment period to enroll in the payment-in-lieu of insurance program. Enrollment in the payment-in-lieu of insurance program may be canceled by the employee only during the annual open enrollment period unless the employee loses alternate group coverage. Enrollment or cancellation during the open enrollment period will become effective the first pay period of the following calendar year.

11.3.56 Payments for the in-lieu insurance program will be discontinued if an employee becomes ineligible for the program. An employee's ineligible status would include but not be limited to the following situations, employment status changes from full to part time, employee is on an unpaid leave of absence, employee is on a reduced work week, or employee loses or does not have alternate insurance coverage. An employee whose in-lieu payments are discontinued may enroll, if eligible, in a health and/or dental plan during the next annual open enrollment period.

11.3.67 If an employee loses alternate coverage, the employee may enroll in a City health and/or dental plan outside of the open enrollment period. To be eligible the employee must provide verification that alternate coverage has been lost.

11.3.67.1 Health Insurance To enroll in a City health insurance plan following loss of alternate coverage, the employee must pay all unpaid premiums (City and employee contributions) and refund any excess in-lieu payments required to make the coverage effective on the date when alternate coverage ceased. Re-enrollment in the plan shall be in accordance with the carriers' enrollment procedures.

11.3.67.2 Dental Insurance Enrollment in a City dental insurance plan following loss of alternate coverage will become effective the first of the month following payment of two dental premiums through the City's payroll process. Re-enrollment in the dental insurance plan shall not be retroactive.

CITY PROPOSAL #8- LEAVES OF ABSENCE

Proposed Language

8.11 Leaves of Absence

8.11.7 Any employee who is absent without notification to their Department Director, or other designated authority, for two (2) consecutive work days shall be considered a voluntary resignation, unless the failure to report is due to extenuating circumstances beyond the control of the employee. An employee will be considered to be absent without notification pursuant to this Section, if notification is not provided prior to the commencement of the second consecutive shift.

CITY PROPOSAL #9- VACATION

Proposed Language

8.2 Vacation

8.2.1 Vacation accrues at the following rate for each paid hour (either worked or paid absence or holiday closure):

- 1-5 years of service = ~~.05875~~.057693 (120 hours annually for full-time employees)
- 6-14 years of service = ~~.077500~~.076924 (160 hours annually for full-time employees)
- 15+ years of service = ~~.096250~~.096154 (200 hours annually for full-time employees)

8.2.2 ~~Up to 240 hours may be carried over from one calendar year to the next. This carryover process shall expire at the end of 2007. At the end of each calendar year, employees may sell back up to 80 hours of earned, unused vacation if employee took five (5) consecutive days of vacation, executive and/or holiday leave the previous calendar year. Vacation may not be taken until the employee has been employed for at least thirteen bi-weekly pay periods. Effective the first pay period of payroll calendar year 2008, e~~Employees may elect to sell back vacation up to ~~four (4)~~ times per year, ~~not more than once per quarter, for a maximum sellback of ninety-six (96) hours of accrued vacation per payroll calendar year.~~

~~Effective the first payperiod calendar year 2008, e~~Employees shall not be allowed to accrue vacation in excess of two times their annual vacation accrual rate. Once the maximum accumulation has occurred, vacation will cease to accrue until the employee's vacation balance has fallen under their maximum vacation accrual amount. Any employee who is already above two times their annual vacation rate, will cease from accruing vacation until they have used enough vacation to bring them below their maximum accrual amount.

8.2.3 If employee separates from City service, the employee shall reimburse the City the appropriate dollar amount for any unearned, used vacation hours.

CITY PROPOSAL #10- SICK LEAVE PAYOUT

Proposed Language

8.4 Sick Leave Payout

8.4.1 Sick leave payout shall be given to each full-time employee at the time of retirement or death directly from City service, under one of the following conditions:

8.4.1.1 Federated Retirement Plan:

8.4.1.1.1 The employee is:

- A member of the Federated Retirement Plan, and
- Retired under the provisions cited in the plan, and
- Credited with at least fifteen twenty (1520) years of service in this retirement plan, or,
- ~~Credited with at least ten (10) years of service prior to a disability retirement.~~

~~8.4.1.2 Terminated Employee with Vesting Rights~~

~~8.4.1.2.1 The employee has:~~

- ~~Terminated service with the City, and~~
- ~~Retained vesting rights in a retirement system according to provisions in the SJMC, and~~
- ~~Following such termination, qualifies for retirement and retires under the provisions cited in the code and~~
- ~~Has at the time of retirement credit for at least fifteen (15) years of service in the applicable retirement plan.~~

~~8.4.1.3 Death During Service The estate of any full-time employee who dies while in City service and prior to retirement, even though the employee is not credited with at least fifteen (15) years of service in any applicable retirement plan.~~

~~8.4.1.4 Death of Terminated Employee~~

~~8.4.1.4.1 The estate of any full-time employee who:~~

- ~~Had terminated service with the City but had retained vesting rights in a retirement system according to provisions in the SJMC, and~~

~~• Dies prior to becoming eligible for retirement allowances as cited under provisions of the SJMC, and~~

~~• Has at the time of death credit for at least fifteen (15) years of service in the applicable retirement plan.~~

8.4.1.58.4.1.2 Payout shall be determined as follows:

~~8.4.1.4.18.4.1.2.1~~ If an eligible full-time employee, as defined in subsection 8.4.1 above, at the time of their retirement ~~or death~~ has earned, unused sick leave hours, the employee shall be paid the equivalent of a specified percent of their hourly rate of pay at the time of retirement, ~~termination or death, whichever comes first~~, multiplied by the total number of the employee's accumulated and unused hours of sick leave as of the date of the employee's retirement or death.

- ~~Less than 400-800~~ hours: Hours accumulated x 50% of final hourly rate

~~• 400 – 799 hours: Hours accumulated x 60% of final hourly rate~~

~~• 800 – 1200 hours: Hours accumulated x 75% of final hourly rate~~

~~8.4.1.4.2 If employee's balance is >1,200 hours, employee is also eligible for a payout of 75% of the value of sick leave in excess of 1,200 hours that is earned but unused during the two years prior to retirement.~~

8.4.1.3 ~~8.4.1.6~~ Use of previously accumulated sick leave hours: For purposes of determining the total number of accumulated and unused hours of sick leave of a full-time employee at the time of the employee's retirement or death, unused sick leave from prior periods of employment with the City shall be used. Previously accumulated sick leave shall be credited to the employee for use during an employee's current employment period.

8.4.1.4 Employees are only eligible for one sick leave payoff while employed by the City of San Jose, including breaks in employment.

8.4.1.5 Employees who separate from City service on or before June 26, 2010, and who have 15 years of service, shall be eligible for a sick leave payout at the rate that is available at the time of their retirement, as specified above.

8.4.1.6 Employees hired by the City on or after June 27, 2010, shall not be eligible for a sick leave payoff benefit.

CITY PROPOSAL #11- ABSENT WITHOUT LEAVE

Proposed Language

- 8.3.11 A full-time employee of the City shall be entitled to sick leave without any pay if required to be absent from work on account of any non-job related illness, injury or disability, in all situations where such employee is not entitled to sick leave with pay. Any full-time employee who is unable to return to work after being absent on paid and/or unpaid sick leave for a maximum of twelve (12) consecutive months or for a maximum of eighteen (18) cumulative months in any period of twenty-four (24) consecutive months may be separated from City service. However, an employee who has reached this limit may apply for a leave of absence without pay pursuant to Section 8.11, Leave of Absence. Notwithstanding the foregoing, in no event shall an employee be entitled to a leave of absence without pay for a period in excess of twelve (12) cumulative months or for twelve (12) consecutive months in any period of twenty-four (24) months shall be separated from City service.

CITY PROPOSAL #12 AND #13- RETIREMENT COST MITIGATION

Proposed Language

ARTICLE 3 AGREEMENT CONDITIONS

3.1 Full Understanding, Modification and Waiver

- 3.1.1 This Agreement sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any and all prior or existing Memoranda of Understanding, understandings and agreements, whether formal or informal, are hereby superseded and terminated in their entirety.
- 3.1.2 Existing benefits within the scope of representation provided by ordinance or resolution of the City Council or as provided in the San Jose Municipal Code shall be continued without change during the term of this Agreement and be provided in accordance with the terms of the Agreement.
- 3.1.3 It is the intent of the parties that ordinances, resolutions, rules and regulations enacted pursuant to this Memorandum of Agreement be administered and observed in good faith.
- 3.1.4 Although nothing in this Agreement shall preclude the parties from mutually agreeing to meet and confer on any subject within the scope of representation during the term of this Agreement, it is understood and agreed that neither party may require the other party to meet and confer on any subject matter covered herein or with respect to any other matter within the scope of representation during the term of this Agreement.
- 3.1.5 Healthcare Cost Mitigation/Retirement Benefits Reopener
 - 3.1.5.1 Notwithstanding any other provision of this Agreement, the parties agree to commence meeting and conferring ~~between January 1, 2011, and January 19, 2011,~~ within fifteen (15) calendar days of the City providing written notice to AEA on retiree healthcare benefits for future employees and a medical reimbursement program for future retirees, and pension benefit/costs for current and future employees.
 - 3.1.5.2 The parties intend to engage in the foregoing negotiations in a coalition bargaining process with all other interested represented bargaining units, if any. However, negotiations between the City and Employee Organization shall commence no later than ~~January 19, 2011 with or without participation of any other bargaining unit~~ fifteen (15) calendar days after the City provides written notice to AEA, with or without the participation of any other bargaining unit. The City and Employee Organization shall negotiate in good faith in an effort to reach a mutual agreement.
 - 3.1.5.3 If no agreement is reached, the parties will follow the impasse procedures set forth in the City of San Jose's Employer-Employee Relations Resolution (#39367) and the Meyers-Milias-Brown Act. The parties understand that this means that, notwithstanding any other provision of this agreement, the City will

have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures. ~~The City agrees that a unilateral implementation of retiree healthcare benefits for future employees shall not be effective before July 1, 2011.~~

ARTICLE 12 RETIREE HEALTHCARE FUNDING

- 12.1 The City and the Employee Organization agree to transition from the current partial pre-funding of retiree medical and dental healthcare benefits (referred to as the "policy method") to pre-funding of the full Annual Required Contribution (ARC) for the retiree healthcare plan ("Plan"). The transition shall be accomplished by phasing into fully funding the ARC over a period of five (5) years beginning June 28, 2009. The Plan's initial unfunded retiree healthcare liability shall be fully amortized over a thirty year period so that it shall be paid by June 30, 2039 (closed amortization). Amortization of changes in the unfunded retiree healthcare liability other than the initial retiree healthcare liability (e.g. gains, losses, changes in actuarial assumptions, etc.) shall be determined by the Plan's actuary. The City and Plan members (active employees) shall contribute to funding the ARC in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code. Specifically, contributions for retiree medical benefits shall be made by the City and members in the ratio of one-to-one. Contributions for retiree dental benefits shall be made by the City and members in the ratio of eight-to-three. When determining the contribution rates for the Plan, the Plan actuary shall continue to use the Entry Age Normal (EAN) actuarial cost method and a discount rate consistent with the pre-funding policy for the Plan as outlined in this Article.
- 12.2 The City and the Employee Organization further agree that the Municipal Code and/or applicable plan documents shall be amended in accordance with the above agreement and that the Employee Organization will support such amendments.
- 12.3 It is understood that in reaching this agreement, the parties have been informed by cost estimates prepared by the Federated City Employees' Retirement System Board's actuary and that the actual contribution rates to reach full pre-funding of retiree healthcare will differ. The phase-in to the ARC shall be divided into five steps (using a straight line method), each to be effective on the first pay period of the City's fiscal year in each succeeding year. The first increment of the phase-in shall be effective on June 28, 2009. It is understood that because of changes resulting from future actuarial valuations, the amount of each increase may vary upward or downward. The City and Employee Organization agree that the Plan member cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year and the City cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year. For example, if the members' contribution rate is 4% of pensionable pay, the subsequent fiscal year's contribution rate for retiree healthcare cannot exceed 4.75% of pensionable pay. Notwithstanding the limitations on the incremental increases, by the end of the five year phase-in, the City and plan members shall be contributing the full Annual Required Contribution in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code.
- 12.4 The City will establish a qualified trust ("Trust") ~~before June 27, 2010~~. Until such time as a Trust is established, the City and employee contributions under this agreement shall be made into the existing Medical Benefits Account for as long the contributions can be made into the Medical Benefits Account in accordance with IRS limitations. If the Trust is not established prior to reaching the IRS limitation, the parties agree to meet and discuss alternative funding vehicles.

- 12.5 It is the objective of the parties that the Trust created pursuant to this agreement shall become the sole funding vehicle for Federated retiree healthcare benefits, subject to any legal restrictions under the current plan, or other applicable law.

CITY PROPOSAL #14 AND 15 - DISABILITY LEAVE SUPPLEMENT

Proposed Language

8.6 Disability Leave

8.6.1 Disability Leave Supplement Disability Leave Supplement (DLS) is the benefit provided pursuant to this Article, which, when added to Workers' Compensation Temporary Disability (WCTD) results in providing employees 8566% of their regular base salary.

8.6.2 Eligibility for Disability Leave Supplement A full-time employee who is required to be absent from work due to a job-related injury or industrial illness who receives WCTD payments pursuant to Division I or Division 4 of the California Labor Code is eligible for DLS, excluding ineligible causes listed in Section 8.6.4. In the event an employee is not eligible for WCTD payments because of the statutory waiting period, DLS shall not be paid for such a waiting period. The employee may use sick leave to cover the waiting period.

8.6.2.1 After the initial three day waiting period has been met, and the employee otherwise qualifies for DLS, the employee may utilize DLS for absences required for medical visits related to the injury after his/her return to work if he/she is unable to schedule such visits on non-work hours. DLS for such intermittent absences is subject to authorization by the Workers' Compensation Section. In no event may DLS exceed the limit specified in Section 8.6.6.

8.6.3 Eligibility for Disability Leave Supplement Linked to Temporary Disability If the Workers' Compensation Appeals Board of the State of California or any judicial court should determine that the employee is not entitled to Temporary Disability (WCTD) compensation, the employee shall not be entitled to Disability Leave Supplement (DLS) benefits. Under such circumstances, any DLS moneys paid to the employee by the City must be returned to the City within one year.

8.6.4 Ineligible Causes for Disability Leave An employee shall not be eligible for disability leave, and shall not receive DLS if the injury or illness that causes the absence results from:

- an act of gross negligence of such employee
- any work voluntarily undertaken by employee from which he/she has been prohibited from engaging in as determined by a City physician, prior to the date of injury.

8.6.5 Ineligibility if Offer and Decline of Modified Duty ~~DLS shall not be provided~~An employee shall be voluntarily separated from City service if the City offers the employee employment at identical or similar salary, within the employee's medical limitations, and the employee refuses or fails to accept duty for which he/she is physically qualified.

8.6.6 Maximum Term of Disability Leave Supplement The employee will receive DLS benefits equal to the amount of money which, when added to the WCTD equals 8566% of what the employee would have earned at the position from which he/she is disabled for one of the following time periods, whichever is shortest:

- The time the employee is medically required to be absent due to a work-related injury or illness, after the required three day waiting period.
- The period of time WCTD is payable to the employee under the Workers' Compensation provisions of Division 1 or Division 4 of the Labor Code of the State of California.
- ~~Nine-Six (96) months (274 days or 15601040~~ 1040 hours if not continually absent) following the date of injury.

8.6.7 Time Limit for DLS Eligibility After ~~1560-1040~~ 1040 hours of DLS, the employee is entitled to no additional compensation for the injury or illness. No employee shall be eligible for DLS five (5) years after the date of the onset of the injury or illness for which he/she is claiming DLS.

8.6.8 Disability Leave Supplement is in Lieu of Regular Compensation Employees who receive WCTD and DLS compensation do not receive their regular salary. DLS as described in this Article is in lieu of regular compensation.

8.6.9 Requirement of Evidence Proving Temporary Disability The Director of Finance is responsible for determining eligibility for DLS. In making this determination, the Director may require the employee to provide proof of injury or illness, proof that the injury or illness will last, and proof of other relevant matters as determined by the Director. The Director may require the employee to submit to a medical examination by a physician selected by the City.

8.6.10 Termination of Disability Leave An employee who is unable to return to full time regular duty following the expiration of any and all leave provided in this Article and the integration of accrued vacation and of Sick Leave as provided in Section 8.3 and with Workers' Compensation may be separated from City service.

CITY PROPOSAL #16- HOUSEKEEPING

Proposed Language

10.3 Working in a Higher Classification

10.3.3 Employees specifically assigned in writing to duties of a higher classification as specified above shall be compensated at the rate in the salary range of the higher class, which is at least two (2) salary rates (steps) higher in the salary range schedule, approximately equal to five percent (5%) higher than the rate received by the employee in the employee's present class. The employee shall not receive the rate of compensation, however, unless the assignment is for a minimum of three (3) consecutive months.

10.5 Premium Pay *

10.5.5 Incentives are payable effective the first pay period following the employee's submission to the ~~department payroll~~ of written proof of license from the appropriate Board of Registration.

** Only for Unit 41 and 42*

ARTICLE 17 DISCIPLINARY ACTION

17.1 The City of San Jose discipline policy is described in City Policy Manual, Section 2.1.3. When the need for disciplinary action arises, disciplinary action will be taken commensurate with the seriousness of the offense. The levels of discipline include informal actions, which are oral counseling, documented oral counseling and written reprimand. Formal disciplinary actions are suspension, salary step-reduction, demotion and dismissal.

17.2 Step-Salary Reduction: In addition to formal disciplinary actions of suspension, demotion, and dismissal contained in the San Jose Municipal Code, the appointing authority may reduce an employee's salary. The salary may be reduced to no lower than the bottom of the salary range, and the amount and length of time of the salary reduction will be specified in the Notice of Intended Discipline. The salary may be reduced either for a specified period of time or until the condition which caused the salary reduction has been corrected. The employee may appeal this action, including the amount and the length of time, to the Civil Service Commission according to the same rules as apply to other formal disciplinary appeals.

CITY PROPOSAL #18- MEDICAL VERIFICATION

Proposed Language

- 8.3.10 ~~An employee may be required to furnish substantiation for any absence for which sick leave payment is requested.~~ Any time an employee is required to report to work and is unable to report due to illness or injury, an employee may be required to furnish medical verification or other substantiation for any such absences.